

This letter provides a reference to the Department's rules regarding vendors of curtains, slip covers and other similar items made to order. See 86 Ill. Adm. Code 130.2140. (This is a GIL.)

February 26, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 9, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are writing to request guidance from your office concerning the taxation of certain installed sale transactions. Specifically, we are concerned with the State's position on the taxability of our lump-sum construction contracts providing for the furnishing and installation of custom-made window shutters, commonly referred to as Plantation Shutters. After you have considered the facts and issues, please provide us with a ruling determination, complete with any citation to authorities supporting the State's position.

Facts

AAA is a STATE corporation. AAA sells, installs, and rents tangible personal property at wholesale and retail in Illinois. In some instances, the installations may result in an improvement to real property. A portion of sales made by AAA in Illinois are made to customers that will have the tangible personal property installed with the help of AAA. In these cases, AAA is acting in the capacity of a general contractor. Most of these sales, including the one's further described here, are installed by independent and unrelated contractors authorized by AAA, or AAA's subcontractor.

The independent installer is contracted to provide material and labor related to the installation of these custom-made shutters. They are asked to quote AAA one cost price

for the entire job, and AAA in turns sells that job to the customer as one lump sum retail price. AAA does not take physical possession of the inventory or materials involved in these custom-made shutters at any time during the transaction.

The independent installer maintains their own stock of the materials to manufacture these shutters, and removes inventory from his stock as the orders are confirmed and measurements and other pertinent information received.

### Scenario

A customer enters a AAA retail establishment in Illinois and informs AAA Associate that they wish to purchase custom-made shutters. The Associate completes a customer service agreement, and takes a nominal deposit (usually \$30) from the customer. The customer data is then given to an independent Manufacturer/Installer of custom-made shutters. The Manufacturer/Installer contacts the customer, and arranges to visit the customer's home to measure the windows and complete the sales. The customer selects product styles and finishes, and the installer makes note of any circumstances that will impact the installation of the finished product. The customer is given a final price quotation and product specifications by the independent installer. The customer then returns to AAA local store and pays for the purchase. Alternately, the customer can call their local store and pay for the shutters with a credit card over the phone. When the product is installed, the independent installer notifies the local AAA store, and the store approves the corporate offices to release payment to the independent installer.

### Product Specifications

The products sold to customers at issue here are custom-made shutters, commonly referred to as Plantation Shutters. They are made from wood or resin materials, and are manufactured to fit one particular window in a customer's home. Shutters made for two different windows are not interchangeable with each other. The shutters are installed with finishing nails and glued or caulked into place in a similar manner as a doorframe. The actual shutter is attached by hinges to the shutter frame, and is custom made to fit the individual window and shutter frame. Removal of the shutter can result in substantial damage to the window frame. Examples of the shutters offered in this program are included with this letter. The shutters are sensitive to heat and humidity, and must be installed in temperature-controlled environments in order to insure proper fit.

### Issues

- Is the independent installer responsible for paying use tax on tangible personal property removed from their inventory for use in completing the installation of these custom-made shutters?
- Is the end customer required to pay sales tax to AAA on the tangible personal property installed?
- In Illinois, is this custom program deemed to be the sale and subsequent installation of tangible personal property or a real property improvement?

\*\*\* \*\*

Please forward your response to the following address:

NAME/ADDRESS

Thank you in advance for your prompt attention to our request for ruling. If you need any additional information or have any question or comments, please contact me.

**DEPARTMENT'S RESPONSE:**

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's rules on our website regarding Vendors of Curtains, Slip Covers and Other Similar Items Made to Order. 86 Ill. Adm. Code 130. 2140.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk